

AMENDED IN SENATE APRIL 10, 2003

**SENATE BILL**

**No. 478**

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**Introduced by Senator Dunn**

February 20, 2003

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An act to add Section 230.2 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 478, as amended, Dunn. Victims of crime: work absences for judicial proceedings.

Existing law prohibits an employer from discharging or discriminating against an employee for taking time off to serve on a jury.

This bill would require that an employer allow an employee who is a victim of a crime, or certain persons who are related to a crime victim or who sustained a pecuniary loss as a result of an injury or death to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime.

This bill would prohibit an employer from discharging, threatening, demoting, suspending, or in any manner discriminating or retaliating against an employee who is absent from work in accordance with these provisions, require reinstatement of the employee and reimbursement for lost wages and benefits, where applicable, and authorize the employee to file a complaint with the Division of Labor Standards Enforcement.

*This bill would require that prosecutors, or their agents, inform employees covered by this bill of their rights and, by so doing, would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 230.2 is added to the Labor Code, to  
2 read:  
3 230.2. (a) As used in this section:  
4 (1) “Derivative victim” means an individual who sustains  
5 pecuniary loss as a result of injury or death to a victim.  
6 (2) “Immediate family member” means spouse, child,  
7 stepchild, brother, stepbrother, sister, stepsister, mother,  
8 stepmother, father, or stepfather.  
9 (3) “Registered domestic partner” means a domestic partner,  
10 as defined in Section 297 of the Family Code, and registered  
11 pursuant to Part 2 (commencing with Section 298) of Division 2.5  
12 of the Family Code.  
13 (4) “Victim” means a person against whom a crime has been  
14 committed.  
15 (b) An employer, and any agent of an employer, shall allow an  
16 employee who is a victim of a crime, an immediate family member  
17 of a victim, a registered domestic partner of a victim, the child of  
18 a registered domestic partner of a victim, or a derivative victim to  
19 be absent from work in order to attend judicial proceedings related  
20 to that crime.  
21 (c) Before an employee may be absent from work pursuant to  
22 subdivision (b), the employee shall give the employer a copy of the  
23 notice of each scheduled proceeding that is provided to the victim  
24 by the agency responsible for providing ~~notice~~, notice, unless



1 *advance notice is not feasible. When advance notice is not feasible*  
2 *or an unscheduled absence occurs, the employer shall not take any*  
3 *action against the employee if the employee, within a reasonable*  
4 *time after the absence, provides the employer with documentation*  
5 *evidencing the judicial proceeding from any of the following*  
6 *entities:*

7 (1) *The court or government agency setting the hearing.*

8 (2) *The District Attorney or prosecuting attorney's office.*

9 (3) *The Victim/Witness office that is advocating on behalf of the*  
10 *victim.*

11 (d) ~~An employee may use vacation, personal leave, or who is~~  
12 *absent from work pursuant to subdivision (b) may elect to use the*  
13 *employee's accrued paid vacation time, personal leave time, sick*  
14 *leave time, compensatory time off that is otherwise available to the*  
15 ~~employee under the applicable terms of employment~~ *employee, or*  
16 *unpaid leave time, unless otherwise provided by a collective*  
17 *bargaining agreement, for an absence pursuant to subdivision (b).*  
18 *The entitlement of any employee under this section shall not be*  
19 *diminished by any collective bargaining agreement term or*  
20 *condition.*

21 (e) *An employer shall keep confidential any records regarding*  
22 *the employee's absence from work pursuant to subdivision (b).*

23 (f) *Any employee who is discharged, threatened with*  
24 *discharge, demoted, suspended, or in any other manner*  
25 *discriminated or retaliated against in the terms and conditions of*  
26 *employment by his or her employer because the employee is*  
27 *absent for a purpose set forth in subdivision (b) shall be entitled to*  
28 *reinstatement and reimbursement for lost wages and work benefits*  
29 *caused by the acts of the employer.*

30 (g) (1) *Any employee who is discharged, threatened with*  
31 *discharge, demoted, suspended, or in any other manner*  
32 *discriminated or retaliated against in the terms and conditions of*  
33 *employment by his or her employer because the employee has*  
34 *exercised his or her rights as set forth in subdivision (b) may file*  
35 *a complaint with the Division of Labor Standards Enforcement of*  
36 *the Department of Industrial Relations pursuant to Section 98.7.*

37 (2) *Notwithstanding any time limitation in Section 98.7, an*  
38 *employee filing a complaint with the division based upon a*  
39 *violation of subdivision (a) subdivision (b) shall have one year*

1 from the date of occurrence of the violation to file his or her  
2 complaint.

3 (h) The prosecutor, or an agent of the prosecutor, shall inform  
4 ~~a victim of~~ all victims, derivative victims, and immediate family  
5 members and registered domestic partners of victims of their rights  
6 under this section.

7 SEC. 2. Notwithstanding Section 17610 of the Government  
8 Code, if the Commission on State Mandates determines that this  
9 act contains costs mandated by the state, reimbursement to local  
10 agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code. If the statewide cost of the  
13 claim for reimbursement does not exceed one million dollars  
14 (\$1,000,000), reimbursement shall be made from the State  
15 Mandates Claims Fund.

